

Municipal Volunteer Fire Department Manual



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FOREWORD

The first edition of *The Municipal Volunteer Fire Department* was compiled and issued in 1948. At that time, the League felt Alabama's municipal volunteer fire departments would benefit from a manual describing the proper relationship between municipal fire departments and municipal governments. As it turned out, our instincts proved correct. Copies of previous editions have long since been depleted and we continue to receive requests for information on the subject.

To answer continuing requests for information about the formation, organization, equipment, operation and regulation of volunteer fire departments, we have prepared this 2015 edition of the manual. Continued emphasis is placed on the need for official recognition of volunteer fire departments by municipal governing bodies. A volunteer fire department should be a department of the city or town government, like any other department performing a governmental function.

This edition contains pertinent statutory language and includes references to selected opinions of the Attorney General regarding volunteer fire departments. An appropriate ordinance for the official recognition and regulation of a volunteer fire department, plus suggested by-laws for the internal organization of a department have been included as a guide for municipalities which have not officially recognized their volunteer fire departments.

We hope that this manual continues to be helpful to municipalities and their firefighters. The official establishment, maintenance and operation of a fire department, whether full-time or part-time, is one of the most valuable services a municipality can render to its citizens. A successful fire department bears directly upon the safety of persons and property and also upon fire insurance rates which property owners are required to pay. All municipalities strive to lower the toll paid by citizens for fire insurance. The proper establishment of a volunteer fire department is the biggest step toward that goal in smaller municipalities – those without the benefit of a full-time fire department.

Greg Cochran
Executive Director
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MUNICIPAL VOLUNTEER FIRE DEPARTMENTS

Alabama is fortunate to have many efficient, well-organized volunteer fire departments. However, in a number of cases, the status of volunteer fire departments is uncertain. Their financial relationship with the municipality is unclear. They operate without a definite set of rules and regulations. Consequently, powers, duties and responsibilities of these departments are sometimes misunderstood. This report has been prepared to clarify these points and to offer suggestions about the operation and organization of an efficient municipal volunteer fire department.

Municipal volunteer fire departments should not be confused with fire districts or community fire departments. Fire districts are authorized by state statute and are manned by either paid or volunteer firefighters. Community fire departments operate as private organizations and are supported by donations or by contracts with property owners.

A municipal volunteer fire department, on the other hand, is a branch of the municipal government. Operating funds are appropriated by the governing body, and firefighters are volunteers who receive little or no reimbursement above actual expenses for their services. This manual deals only with municipal volunteer fire departments.

Legal Status of Municipal Fire Departments

Alabama law concerning volunteer fire departments is not as specific and comprehensive as the law in other states. Ample authority is given to municipalities to establish volunteer fire departments. But organization and operating procedures are left to the discretion of the local governing body.

Section 11-43-140, Code of Alabama 1975, is the general law authorizing the establishment, maintenance and operation of volunteer fire departments. This section also empowers the municipal governing body to make rules and regulations for the efficient operation of the volunteer fire department.

A municipality is not obligated to create and operate a fire department. In the case of *State v. Baumhauer*, the Supreme Court of Alabama ruled that Section 11-43-140, Code of Alabama 1975, does not impose a duty upon a municipality to establish and maintain a volunteer fire department. See *State v. Baumhauer*, 12 So. 2d 326 (Ala. 1942). However, once a city or town organizes and provides for a professional fire department, a duty is owed to the citizens of the city or town. See *Williams v. City of Tuscumbia*, 426 So. 2d 824 (Ala. 1983). If a city creates a volunteer fire department, the city does not have a legally enforceable duty to provide skillful fire protection. *Hollis v. City of Brighton*, 885 So. 2d 135, 140 (Ala. 2004) (emphasis added). Nor can the City be held directly liable for the acts or omissions of the volunteer fire department or its firefighters. *Id.*

The creation of a fire department is at the discretion of the municipality. If a municipality chooses to maintain a fire department, it can be held liable for negligence in failing to provide fire protection. See *Zeigler v. City of Millbrook*, 514 So. 2d 1275 (Ala. 1987). Municipalities should carefully consider their ability to provide adequate fire protection prior to organizing a department or agreeing to provide protection outside the municipal limits.

Section 11-43-5, Code of Alabama 1975, authorizes the municipal governing body to appoint a chief of the fire department and to prescribe the duties of the chief. The courts have ruled that this section also authorizes the governing body to fix the salary of the fire chief. See *Beasley v. McCorkle*, 184 So. 904 (Ala. 1938).

A person under the age of 18 is prohibited from serving as a firefighter in a volunteer fire department. § 25-8-43, Code of Alabama 1975.

Jurisdiction of Municipal Fire Departments

Alabama municipalities have no direct authority to provide fire protection in their police jurisdictions. Rather, this power is implied from several statutes.

Section 11-40-10, Code of Alabama 1975, directs municipalities to provide for the health, welfare and sanitation of their police jurisdictions. Further, municipalities have the authority to collect business licenses and other taxes in the police jurisdiction at a rate not to exceed one-half of the amount levied against similar businesses operating within the corporate limits, and all taxes collected in the area must be expended in providing services to the area. § 11-51-91, Code of Alabama 1975; see also *Holt Civic Club*, 439 U.S. 60 (1979); *City of Attalla v. Dean Sausage Co.*, 889 So. 2d 559, 568 (Ala. Civ. App. 2003). Both of these statutes are permissive rather than mandatory.

A municipality's authority over fire protection and rescue services in the police jurisdiction is not exclusive. If a municipality undertakes to provide fire protection in its police jurisdiction, the services provided in the police jurisdiction should be provided equally throughout the police jurisdiction. Attorney General Opinion No. 2010-103. Likewise, a municipality may contract with a volunteer fire department to provide service in a portion of the police jurisdiction, provided that the protection is equal to that provided elsewhere in the jurisdiction. *Id.* If no tax revenue is received, neither the city nor the volunteer fire department has an obligation to provide fire protection in the police jurisdiction, absent a contract. Attorney General Opinion No. 99-00019.¹

Since 1955, Alabama municipalities have been authorized to send their firefighters beyond the corporate limits and police jurisdiction to fight fires. Section 11-43-141, Code of Alabama 1975, allows firefighters to go, or be sent, to any point within the state to meet any emergency resulting from fire or other public disasters. Volunteer fire departments may respond to calls in adjacent counties if authorized by their bylaws and no funds received from the tax levied for fire, medical, and emergency services in the responding county are used on such calls for equipment, materials, personnel compensation, or otherwise. Attorney General Opinion No. 2012-034.

Section 11-43-141, Code of Alabama 1975, also provides that firefighters, when meeting such emergencies, are entitled "to pension, relief, disability, workmen's compensation and other benefits" they would receive if performing their duties within the police jurisdiction or corporate limits of their municipality.

Fire Protection Beyond the Corporate Limits and Police Jurisdiction

Under Section 11-43-142, Code of Alabama 1975, Alabama municipalities may enter into contracts to provide fire protection outside their corporate limits and police jurisdictions. At the discretion of the governing body, a municipality may contract with other municipalities, counties, industries and residential and business areas to provide fire protection. The providing municipality prescribes the conditions of such assistance and the fees which will be charged for the service. § 11-43-142, Code of Alabama 1975. Additionally, providing the service will be deemed to be acting in a governmental capacity, and the municipality will only be subject to liability for injuries that the service would be responsible for if it were operating in its own jurisdiction. *Id.*

If continuous outside fire protection is furnished, an ordinance or resolution declaring the policy of the municipality should be passed by the governing body. This policy statement should:

- specify the circumstances under which assistance will be given;
- designate a person in authority to request assistance; and
- state that calls will be answered with only the apparatus and manpower which the fire chief determines can be sent without harming the fire protection capability of the providing municipality.

¹ Act 2015-361, effective September 1, 2015, provides that a municipality has the authority to not provide services to police jurisdictions surrounding non-contiguous areas.

Such a declaration of policy should be formulated by the governing body as a whole. Neither the fire chief nor the mayor should be compelled to assume the entire responsibility of making the policy.

In addition to the policy ordinance or resolution, a written contract should exist between the providing municipality and each jurisdiction, individual, or business to be served. Appendix C contains a sample contract between two jurisdictions for fire protection service. Appendix D contains a sample agreement between a municipality and a business or homeowner for fire protection services.

Financial arrangements for providing outside services can be handled in various ways. Areas frequently requesting assistance can be required to maintain a balance with the city treasurer to cover charges. Or jurisdictions can be billed quarterly, semi-annually or annually according to the number of fire runs made. The written agreement can also stipulate that those receiving protection must compensate the municipality for actual damages to equipment. In any case, the terms, rates, and methods of payment must be specified in the written contract.

When deciding whether to extend fire protection beyond the corporate limits, the municipal governing body should answer several questions:

- If firefighters and equipment are sent out, will the remaining equipment and manpower be sufficient to protect municipal citizens who pay taxes for the service?
- Can the municipality appropriate sufficient funds to provide continuous protection outside the corporate limits?
- What effect will extra-territorial fire protection have on the fire insurance rating of the providing municipality?

Before entering any agreement, the governing body should consult with ISO Commercial Risk of Atlanta, Georgia, to determine what effect providing outside service will have on the insurance rating of the municipality. The fire insurance rating is the grade assigned by fire insurance underwriters. This rating directly affects fire insurance premiums paid on property within the municipality.

Unlimited fire service to all residents and businesses beyond the corporate limits would probably result in a higher, less desirable fire insurance rating. On the other hand, the rating might not be affected if sufficient manpower and equipment are maintained within the corporate limits while assistance is given outside the corporate limits.

Liability of Volunteer Fire Departments and Firefighters

In the 1975 case of *Jackson v. City of Florence*, the Alabama Supreme Court abolished governmental immunity for Alabama municipalities. See *Jackson v. City of Florence*, 320 So. 2d 68 (Ala. 1975). Since the Jackson decision, however, the Alabama Legislature has limited the liability of a municipality to a maximum of \$100,000 per person, \$300,000 per occurrence for personal injury caused by municipal negligence, and \$100,000 for property damage. §§ 11-93-1 - 11-93-3, Code of Alabama 1975.

However, in 2004 the Alabama Supreme Court held that a municipality is not directly liable for the acts or omissions of a volunteer fire department or its firefighters. See *Hollis v. City of Brighton*, 885 So. 2d 135, 140 (Ala. 2004).

Individual volunteer firefighters are protected from civil liability by Section 6-5-335, Code of Alabama 1975. Section 6-5-335, Code of Alabama 1975, grants immunity from liability to members of organized volunteer fire departments when acting gratuitously and in good faith to preserve and protect any building or other property from fire. Attorney General Opinion No. 2011-061. This law is known as the "Volunteer Service Act" (VSA). However, the VSA does not protect individual volunteer firefighters from actions for wanton or willful misconduct. *Id.*

Likewise, it does not appear to protect members of volunteer fire departments in their operation of motor vehicles in route to fires. Attorney General Opinion No. 83-00136. Thus, volunteer fire departments should have liability insurance on motor vehicles placed in their possession. *Id.*

Volunteer fire departments are expressly foreclosed, under the Volunteer Service Act, from vicariously sharing immunity with volunteer firefighters based on the master-servant relationship. With respect to a negligence claim brought against the department. § 6-5-336(e), Code of Alabama 1975; *Ex parte Dixon Mills Volunteer Fire Dep't, Inc.*, No. 1131484, 2015 WL 2340222, at *9 (Ala. May 15, 2015).

Liability of a volunteer firefighter, a fire department, or a municipality depends upon all the facts and circumstances in each particular case and, thus, is determined on a case-by-case basis. Attorney General Opinion No. 2001-151. Only a court of competent jurisdiction can make the final determination as to whether any liability exists in a particular case. *Id.*

Training of Volunteer Firefighters

A 1975 act passed by the state legislature established the Alabama Firefighters' Personnel Standards and Education Commission, a seven-member body which regulates employment and training of firefighters at the state and local levels. See §§ 36-32-1 - 36-21-14, Code of Alabama 1975. The minimum standards provided in Section 36-32-7, Code of Alabama 1975, apply to persons who are to be employed as firefighters by a public fire-fighting agency. A firefighter is any person who is permanently employed in fire administration, fire prevention, fire suppression, fire education, arson investigation and emergency medical services. § 36-32-1, Code of Alabama 1975. The chief is responsible for ensuring that each employee, who is required, receives the required training at an approved school. Training is required when the employee is a firefighter or fire protection personnel as defined in Section 36-32-1, Code of Alabama 1975, the firefighter is employed by a "firefighting agency," as defined in Section 36-32-1, Code of Alabama 1975, the firefighter provides services to the public, the firefighter receives compensation for those services, and compensation received obligates the firefighter to perform. Ala. Admin. Code 360-X-2-.01 (2014).

Paid on call personnel, who respond to calls, are required to meet the training requirements outlined in Section 36-32-7, Code of Alabama, 1975. However, an individual, employed as a police officer who in addition serves as a volunteer fire fighter, does not have to meet the training requirements of the Code of Alabama for the position in which he serves as a volunteer. Attorney General Opinion No. 86-00011.

Volunteer firefighters **may** be certified by the Commission, although certification is not mandatory. Candidates for volunteer firefighter certification must:

1. Be at least 18 years old
2. Meet the Entrance Requirements as required by the Commission
3. Have the general knowledge, skill, performance and additional requirements for Fire Fighter I as required by the Commission
4. Be a Certified Hazardous Materials First Responder
5. Complete 160 hours of training within a 24-month period at a training center approved by the Commission. (This training does not have to be taken during continuous sessions.)
6. Have an overall score of 70% on the state certification examination provided by the Alabama Fire College and Personnel Standards Commission
7. §§ 36-32-1, 36-32-12, Code of Alabama 1975; Ala. Admin. Code 360-X-2-.01 (2014).

Certifications issued by the Commission will not expire as long as the certified individual obtains 30 hours per calendar year of continuing training that is relevant to the performance of firefighting duties. Documentation of such training must be maintained by the department with which the Volunteer Fire Fighter is affiliated and made available for inspection by the Commission upon request. Ala. Admin. Code 360-X-1-.01 (2015).

The Alabama Forestry Commission also regulates volunteer fire departments for the purpose of retaining certification and may require participation in training programs and other activities. § 9-3-17, Code of Alabama 1975.

Additional information is available from the Alabama Firefighters' Personnel Standards and Education Commission, 2501 Phoenix Drive, Tuscaloosa, Alabama 35405. The telephone number is (205) 391-3750.

Establishing and Funding Volunteer Departments

A municipality may establish a municipal volunteer fire department by adopting an ordinance of general and permanent operation. A sample ordinance establishing a municipal volunteer fire department is included as Appendix A of this Manual. Final control of a municipal volunteer fire department should be left in the hands of the municipal governing body.

Municipal volunteer fire departments can be funded by municipal appropriations, grants and/or donations. The city council has final authority on the expenditure of these funds. If a volunteer fire department is recognized or sanctioned by a city, funds collected by that agency become city funds and should be included in the written financial mayor's report to the council and should be audited with other city funds. Attorney General Opinions No. 95-00050 and 94-00083. If the funds are solicited by a group of volunteers not directly tied to the city, then these funds belong to that organization. See Opinion of the Attorney General to Ms. C. Eleanor Byrd, December 18, 1984, and Attorney General Opinion No. 94-00063. As such these funds can be used for broader purposes than those authorized by the city.

An example of this practice would be a booster club. Whereas, a public high school football team is not allowed to solicit or engage in fundraising activities, the football team member's parents could form a booster club and fundraise and solicit donations and donate contributions to the high school for use for the high school football team. Likewise, whereas funds collected by the volunteer fire department become city funds and are subject to the Section 94 of the Alabama Constitution which prohibits a public entity from using public funds or assets to benefit a private entity, unless the council determines a public purpose is served; funds raised by a private entity entirely separate from the city (e.g., Friends of the Volunteer Fire Department Association) are not subject to the same restrictions and can be used for broader purposes. However, great care should be taken to ensure these funds are not commingled with the volunteer fire department's funds or the city's funds. Doing so would subject these funds to the same restrictions as outlined above.

All expenditures for fire department purposes should be made through appropriation by the governing body. Municipal funds cannot be used to purchase equipment or supplies for a volunteer fire department without the knowledge and consent of the municipal governing body, or council. Attorney General Opinion to Hon. Christine Clifton, Sept. 20, 1955. Further, municipal volunteer fire departments are subject to the Competitive Bid and Public Works Laws. Attorney General Opinion No. 2012-016. Thus, equipment purchases by a municipally sanctioned volunteer fire department must be by competitive bid.

A city may donate training funds under Section 9-3-18, Code of Alabama 1975, to a volunteer fire department that is not part of the municipal government without regards to the residence of its volunteers; however, it is highly suggested that the city enter into a contract with the volunteer fire department for the services in return for money donated, if such an agreement is intended. Attorney General Opinion to Hon. Jack A. Higgins, October 27, 1981.

Volunteer fire departments and all real and personal property of all volunteer fire departments in this state, ...are exempt from the payment of any and all state, county and municipal taxes, licenses, fees and charges of any nature whatsoever, including any privilege or excise tax levied by the state of Alabama or any county or municipality thereof. § 40-9-13(a), Code of Alabama 1975 (emphasis added). They are also exempt from building inspection fees, permit fees, entertainment fees, utility taxes, filing fees, special events retail liquor license fees and solid waste disposal fees. Attorney General Opinions No. 2013-054 and 2011-054. However, volunteer fire departments are not exempt from paying their prorated share of the cost of programs for the equalization of ad valorem taxes. Attorney General Opinion No. 95-00287.

Section 40-9-13(a), Code of Alabama 1975, does not require that property or services offered by a county or municipal government for sale or rent to the public be provided free to volunteer fire departments and other organizations described in the statute. Attorney General Opinion No. 2002-261.

By-Laws of Volunteer Departments

Rules and regulations are necessary for the efficient operation of a volunteer fire department. When the fire alarm sounds, there is no time to quibble over the chain of command or to decide the best plan of attack to extinguish the fire.

By-laws should be simple, concise, and in keeping with local conditions. Generally, the organization of volunteer fire departments is similar to paid departments. Yet the rules for a volunteer organization need not be as detailed. Many details can be handled at department meetings or left to the discretion of the fire chief. A sample set of by-laws is included in Appendix B of this manual.

The Fire Chief

According to the old adage, a fire department is only as good as its chief. The fire chief should be a public spirited citizen, motivated to serve the community from a sense of duty rather than for the pay involved. The fire chief should be a leader capable of making decisions, directing manpower and enforcing discipline. He or she must understand the problems of firefighting, and must be willing to devote time to study developments in firefighting techniques. It is most desirable that the fire chief receive training in a recognized fire school.

For a department, whether paid or volunteer, to efficiently carry out its mission, it is essential that a well-qualified and trained individual be in charge. The fire chief should be available for this purpose around the clock.

Another officer who is qualified by training and experience should be designated to serve as acting chief in those instances where the fire chief is not available. By using this system, the department can be assured of having qualified leadership on all occasions.

Department Membership

The minimum staffing requirement for most volunteer fire departments is twenty. Usually, not more than one out of every two firefighters is available for a given alarm, and at least ten firefighters should respond to any fire at any time.

Instead of recruiting members for the volunteer fire department, some cities and towns contract with a locally formed volunteer firefighter association. The municipality pays a fee to the association which provides a certain number of firefighters to staff the volunteer fire department. The municipality pays only the association and not to the firefighters. Any money raised by the association belongs to the association and not the municipality.

The individual members of the volunteer fire department have no control over or ownership interest in the volunteer fire department, which is a municipal department staffed by volunteers. The city council which is vested

with the duty of managing and controlling the finances and all personal and real property belonging to the city. § 11-43-56, Code of Alabama 1975; Attorney General Opinion No. 93-00014.

In addition, business records of a volunteer fire department are subject to disclosure under the Open Meeting Act, except when specific records or portions thereof can be demonstrated by the department to fall within a recognized exception. The records must be maintained according to guidelines of the State Records Commission. Attorney General Opinion No. 2012-016.

Drills

Essential for efficiency, drills allow time for necessary physical work with equipment plus an opportunity to study modern fire methods. Fundamental training usually includes:

- use of tools, equipment and apparatus of department;
- study of elementary hydraulics – friction loss in hose, number of lines a pumper will supply, siamesing of lines, use of various sizes of hose, water systems and supplies;
- theories and characteristics of various types of chemicals – when and where to use each type, how to recharge and maintain, dangers;
- care of hose and apparatus;
- methods of firefighting – assume fires in various buildings and dangerous locations and plan methods of attack;
- fire prevention work.

Special consideration is always given to fire departments by insurance rating bureaus for regular, well conducted fire drills.

The officers of a volunteer fire department have an obligation and a duty to learn new firefighting methods and problems. All firefighters must attend regularly scheduled meetings, drill and training classes within the department which must be documented and kept on file at the department location for one year. § 9-3-17, Code of Alabama 1975. Numerous publications on both the technical and practical aspects of firefighting are available, many free of charge, from Underwriters Laboratories and other organizations involved in fire prevention. Probably the largest producer of such information is American Insurance Association, 85 John Street, New York, New York 10038.

The fire department may burn houses on private property for training purposes, if the houses are donated to the municipality for that purpose. Advisory Opinion No. 95-85; Attorney General Opinion No. 90-00373.

Compensation of Volunteer Firefighters

At least 80 percent of the volunteer fire department must be unsalaried. § 9-3-17, Code of Alabama 1975. Municipalities may enter into a contract with each volunteer firefighter for the purpose of providing a reasonable expense allowance for attending fires. Attorney General Opinion No. 91-00157. In a municipally sanctioned volunteer fire department, if the city chooses to provide compensation to the volunteer firefighters in the same manner as they compensate other firefighters who are full-time salaried employees, the volunteers may become city employees and, thus, subject to all rules and regulations concerning city employees. *Id.*

The Fair Labor Standards Act (FLSA), and the regulations implementing the FLSA, provide that a volunteer may only be paid expenses, reasonable benefits, or a nominal fee, or any combination thereof, without losing volunteer status. Examples of permissible expenses or benefit payments are described as a payment for expenses, such as dry cleaning; an allowance for requirements such as uniforms; reimbursement for an out-of-pocket expense such as transportation; a payment to provide materials such as supplies; or a payment for benefits, such as participation in a group insurance plan. See FLSA Opinion Letter 2006-28.

Although, the FLSA and its regulations do not define what constitutes a “nominal fee, the regulations provide guidance for determining whether a fee is nominal and permissible. The factors to examine in determining whether an amount is nominal include without limitation: (1) the distance traveled and the time or effort required of a volunteer; (2) the availability, limited or unlimited, of a volunteer to provide services; and (3) the basis, as needed or throughout the year, on which a volunteer agrees to perform services. See FLSA Opinion Letter 2006-28; 29 C.F.R. § 553.106(e). These factors focus on whether the fee is akin to a payment for services. See FLSA Opinion Letter 2006-28. Thus, to the extent that payments are tied to productivity (e.g., payment of hourly wages for services rendered), are similar to “piece rates,” or are comparable to “production bonuses,” there is a greater likelihood that such fees are not nominal. *Id.* Accordingly, nothing in the statutory language precludes the payment of nominal per-call or even per-shift fees to volunteer firefighters, and indeed section 553.106(e) specifically provides that a nominal fee can be paid on a “per call” or similar basis for volunteer firefighters. *Id.*

Whether or not a fee is nominal must be considered in the context of any and all benefits and expenses provided for and the “economic reality” of the particular situation. *Id.* Section 553.106(f) sets forth the “economic realities” test, which specifically provides that the determination of whether the expenses, benefits or fees would preclude an individual from qualifying as a volunteer under the FLSA must be made by examining the total amount of payments in the context of the economic realities of a particular situation. See FLSA Opinion Letter 2005-51. In other words, to determine whether a fee is a “nominal fee,” one must look to the “economic realities” of the situation and compare the volunteer fee to what it would otherwise cost to compensate someone to perform those services.

When a public agency employee volunteers, it is presumed the fee paid is nominal as long as it does not exceed 20 percent of what the public agency would otherwise pay to hire a full-time employee for the same services. See FLSA Opinion Letter 2005-51. This interpretation of “nominal fee” applies equally in the context of firefighters. See FLSA Opinion Letter 2006-28. Thus, an amount not exceeding 20 percent of the total compensation that the employer would pay to employ a full-time firefighter for performing comparable services would be deemed nominal. *Id.*

The City can use any firefighter on its payroll as a good benchmark for this calculation. *Id.* Absent such information, the City may look to information from neighboring jurisdictions, the state, or, ultimately, the nation, including data from the Department of Labor’s Bureau of Labor Statistics. *Id.* So long as the City’s calculations are based on an approximation of the prevailing wages of a driver or firefighter within its area and the fee amount does not exceed 20 percent of that firefighter’s wages for the same services, the Department would find that such a fee would be nominal within the meaning of 29 C.F.R. § 553.106. *Id.* Moreover, in evaluating whether a fee is nominal, the City should consider that, in addition to paying a nominal fee, as noted above the City may reimburse an individual for the approximate out-of-pocket expenses incurred. *Id.*

Because of all the factual considerations, questions and concerns about whether or not the fees paid to volunteer firefighters are nominal for purposes of the FLSA should be addressed to your municipal attorney. If the fee is not nominal then the individual does not qualify as a volunteer and therefore may be considered an employee for purposes of the FLSA.

A councilmember may serve on the volunteer fire department, provided they get no compensation for services. All municipal officers may be provided reimbursement for their expenses incurred in the performance of municipal duties. Attorney General Opinion to Hon. Paul Shipes, February 8, 1974.

Insurance Coverage for Volunteer Firefighters

Municipalities are not required to secure medical insurance for their employees. Cities and towns can provide such coverage for their employees including volunteer firefighters. Opinion of the Attorney General to Hon.

Robert S. Milner, May 30, 1983. A city or town may not purchase disability insurance for members of the volunteer fire department unless a contractual relationship exists between the two entities. If a councilperson serves as a volunteer, he may receive such coverage provided he did not vote on it. Attorney General Opinion to Hon. J. Frank Lanier, September 10, 1979.

Municipalities may provide workers compensation coverage for volunteer firefighters. See § 25-5-50, Code of Alabama 1975. Each municipality should contact its insurance carrier about this coverage.

Beneficiaries of volunteer firefighters are entitled to the death benefit provided by the state if the firefighter died while engaged in the performance of duties as a volunteer firefighter. Opinion of the Attorney General to Hon. William H. McDermott, February 26, 1975.

In addition, the State of Alabama provides benefits to volunteer firefighters who are killed or disabled in the line of duty. See § 11-43-144, Code of Alabama 1975.

Police Powers of Volunteer Firefighters

Municipalities and volunteer fire departments have broad powers of control over property and buildings. § 11-43-59, Code of Alabama 1975.

Section 11-43-59, Code of Alabama 1975, provides that the council may prescribe fire limits in any city or town, and buildings of wood or other inflammable material shall not be erected therein. The council may do all things necessary to prevent conflagration and give security to the inhabitants of the city or town from fires. The council may adopt building laws and may employ building inspectors to see that the laws are not violated and that the plans and specifications for buildings are not in conflict with the ordinances of the city or town and may exact fees to be paid by the owners of the property inspected. The council may secure the safety of persons from fire in hotels and halls and in such other buildings as may be designated by the council, to have and maintain ample means of exit in case of fire, and may refuse to license and may prevent the use of such buildings for such purposes until such ordinances have been complied with. The council may adopt ordinances requiring buildings to be equipped with fire escapes when in the opinion of the council they are necessary. The council may condemn buildings, parts of buildings or structures dangerous to the public and prohibit the use thereof and abate the same as a nuisance. The council may make reasonable charges for the service of plumbing and electric wiring inspection, inspection of foods and feedstuffs, meats and vegetables and weights and measures.

Municipal authorities, at times, must exercise their police powers and destroy private property to save human life, to protect public health, to preserve other property, or to insure public safety. Such actions are allowed in the presence of imminent peril or by the execution of a valid ordinance. **Note:** The city is required to follow the procedures set out in its own ordinances. See *Smith v. City of Mobile*, 374 So. 2d 305, 307 (Ala. 1979).

Sample ordinance provisions to aid fire departments may be found in Appendices E, F and G of this manual.

Regular Fire Inspections

Thorough, frequent inspections are the backbone of effective fire prevention. Regular inspections by the fire chief or his designees are needed to discover violations of fire laws and to correct conditions which could cause fires. Most firefighters regard inspections as an opportunity to learn the layout of each building and to discover any structural problems which might hamper firefighting.

Inspections are recommended at least every six months in all the territory served by the department. Additionally, congested areas subject to conflagration and all territory within the fire limits should be inspected at least once every three months.

To conduct effective inspections, firefighters must be familiar with the building code, the electrical code, various fire prevention orders issued by the National Board of Fire Underwriters and all ordinances pertaining to fire prevention work.

Written reports of each site inspected should be mandatory. Files should be maintained at the fire department, preferably in the office of the fire chief.

At each building or plant visited, the inspecting firefighter should first ask permission, from the person in charge of the premises, to make the inspection. The firefighter should present his or her badge or other identification and explain the purpose of the inspection. Though not legally necessary, permission to make the inspection should always be sought. Additionally, the inspector should ask the person in charge, or someone familiar with the property, to accompany him during the examination to assist in location and identification.

Simple inspection blanks printed with the most common fire hazards – combustible rubbish, waste material, oily rags, obstructions to doors and fire escapes, unprotected openings, and so forth – are useful. Forms should also have spaces for the date, name and address of the owner or occupant, types and amount of fire protection equipment, explanations of hazards found, recommendations for correction, and the name of the inspector. One form should be completed for each property inspected.

Easily correctable hazards can be removed while the firefighter is on the premises. In other cases, the inspector should leave a copy of the inspection record, with instructions to correct the conditions within a stated reasonable time. These premises should be rechecked at the expiration of the grace period to make certain that the hazard has been eliminated.

Interior inspection of private dwellings is encouraged and the sample ordinance in the Appendix includes such a provision. Records should be maintained in the same manner as for other property, and follow-up inspections within a stated reasonable time are encouraged.

Special emphasis should be placed on the frequent and thorough inspections of schools and other public buildings.

Other Fire Prevention Work

Fire departments may suggest ordinances, to be adopted by the governing body, which would aid in the prevention of fires. For example, ordinances to restrict the burning of rubbish, to require chimneys to be cleaned periodically, to limit or forbid the sale of fireworks, or to require noncombustible roof coverings are all proper subjects for consideration by a municipal governing body.

Firefighters may also suggest to governing officials that abandoned or dilapidated buildings that are fire hazards be removed according to law. Departments may provide standby fire protection for brush fires and controlled agricultural burns, but equipment cannot be used to fill swimming pools and ponds for residences. Advisory Opinion No. 95-85.

Finally, the annual Fire Prevention Week, held in early October, offers an educational opportunity for citizens to learn to prevent fires. Annual spring clean-up campaigns also help induce the disposal of flammable materials and other fire hazards.

Investigation of Fire Causes

It is the duty of the chief of every municipal fire department to investigate the cause, origin and circumstances of each fire within the municipality. All fires of unknown origin especially must be investigated to determine if the fire was caused by accident or arson.

Investigations should begin immediately after the fire. The police chief or sheriff should be called in if the fire chief suspects foul play is involved. The State Fire Marshal's Office in Montgomery must be notified since that office is mandated to record all fires within the state. A written statement of all the facts of the fire must be submitted. Additional information may be requested by the State Fire Marshal.

Adoption of Codes and Ordinances by Reference

The State Fire Marshal's office is always ready to send a deputy to work with a fire department's investigation, especially where arson is suspected.

Municipalities are authorized by Section 11-45-8(c), Code of Alabama 1975, to adopt codes and ordinances by reference. Most cities and towns have adopted a model fire prevention code such as the one published by the National Board of Fire Underwriters.

Conclusion

Many subjects in this manual have been discussed only briefly. For additional information about adopting codes by reference, contact ALM's Legal Department: Alabama League of Municipalities, P.O. Box 1270, Montgomery, Alabama 36102; phone (334) 262-2566. **Website: www.alalm.org.**

APPENDICES

All ordinances contained in this publication are intended solely as examples and not as a substitute for obtaining individualized legal advice. Use of these sample ordinances is at the sole risk of the user. The Alabama League of Municipalities and its staff disclaim any responsibility or liability which may arise or result from the use of these sample ordinances or any portion thereof. Each municipality should seek the advice of its attorney before adopting any of the following ordinances.

Additionally, for liability reasons, each municipality should determine its ability – based on available equipment and personnel – to adequately perform each duty suggested in these ordinances and adjust them to conform to local circumstances.

APPENDIX A

Sample Ordinance to Establish a Volunteer Fire Department AN ORDINANCE

To provide for the organization and regulation of a volunteer fire department in the City [Town] of _____ to be known as THE FIRE DEPARTMENT OF THE CITY [TOWN] OF _____, prescribing the powers and duties of its officers and members; providing certain regulations the violation of which shall be unlawful; and prescribing penalties and punishment for such violations.

BE IT ORDAINED BY THE CITY [TOWN] COUNCIL OF THE CITY [TOWN] OF _____:

Section 1. Pursuant to the authority contained in Sections 11-43-140 through 11-43-144, Code of Alabama 1975, a department to be known as THE FIRE DEPARTMENT OF THE CITY [TOWN] OF _____ (hereinafter referred to as “the Department”) is hereby established, and the duty of preventing and extinguishing fires and the protection of life and property within the City [Town] of _____ (and its police jurisdiction) is hereby delegated to the department. The organization and internal regulation of the department shall be governed by the provisions of this ordinance, and such by-laws adopted by the department with the approval of the City [Town] Council, except as otherwise provided by law or ordinance.

Section 2. (a) The department shall consist of a chief, an assistant chief, a captain and a lieutenant for each company, a secretary-treasurer, a master mechanic, and as many drivers and firefighters who are residents of the City [Town] of _____ (and its police jurisdiction) as may be appointed by the chief; provided that at no time shall the department consist of less than 20 active members.

(b) The chief shall be appointed by the City [Town] Council for a term not to exceed that of the mayor, and the chief’s tenure of office shall depend upon good conduct and efficiency. The fire chief shall be technically qualified by training and experience and shall have the ability to command fire personnel and hold their respect and confidence. The fire chief shall be removed only for just cause after a public hearing before the City [Town] Council.

(c) Active membership in the department for members other than the chief shall cease at the age of fifty-five unless the council shall, by a majority vote, approve of the person continuing as an active member. Upon reaching the age of fifty-five, active members shall become honorary members and shall be assigned to lighter duties.

(d) (1) Any person desiring to become a member of the fire department may file, with the secretary, an application in such form as the council may require. Each applicant shall also file a certificate of physical fitness from such physician as the chief may designate. The name of the applicant approved by the chief as provided in the by-laws shall be presented to the council for confirmation.

(2) All resignations from the department shall take the same course as applications for appointment to membership.

(e) (1) The assistant chief and all other department and company officers shall be appointed by the fire chief from members of the department. Such officers shall be accountable to the fire chief and shall be subject to demotion or expulsion by the chief for neglect or refusal to perform their departmental duties, subject to an appeal from such demotion or expulsion to the council. The by-laws may also provide expulsion for failure to participate in departmental activities or for non-residence.

(2) No member of the department shall be eligible for departmental or company offices whose entire time, both day and night, is not ordinarily spent within the corporate limits of the municipality, and except for the initial appointments under this ordinance, has not been a member of the department for at least two years.

(f) (1) The department shall organize into one or, at the option of the chief, into two or more companies, of which not less than one-half of the members must be employed in the municipality. The fire chief may at any time make transfers between companies which he or she deems necessary.

(2) Each company shall be the charge of a captain and a lieutenant who shall be responsible to the chief. A list shall be posted on each vehicle ranking personnel who shall be in charge of the company at the scene of a fire in the event the captain and lieutenant are unable to respond.

(g) The election of the secretary-treasurer and such social officers as the by-laws may require shall be held at the annual meeting of the department as may be provided in the by-laws. In case of any vacancy, the chief shall appoint a member in good standing to fill the office until the next annual meeting.

Section 3. The department is hereby authorized and directed to adopt by-laws for the control, management, government and regulation of the business and proceedings of the department, which by-laws, after adoption by a two thirds vote of the members of the department, shall not become effective and operative until presented to and approved by the council. Amendments to the by-laws shall be adopted and approved in the same manner.

Section 4. The council shall appropriate funds to provide for the operation of the department, and for the purchase of firefighting apparatus and equipment to be used by the department, as it may deem expedient and necessary to maintain efficiency and properly protect life and property from fire.

Section 5. The officers and members of the department shall receive such compensation from the City [Town] as the council may fix from time to time.

Section 6. Powers and Duties of the Chief.

(a) The chief shall have the general supervision of the department, which shall be subject to and not conflict with this ordinance and/or the by-laws of the department. The chief shall be responsible for the safety of the members of the department.

(b) It shall be the duty of the chief to preside over all meetings of the department, to call special meetings, to preserve order, to decide all points of order that may arise, and to enforce a rigid observance of this ordinance and the by-laws.

(c) It shall be the duty of the chief to be present at all fires, and to have complete command and entire responsibility of all firefighting operations, to plan the control of the same, to direct the action of the companies when they arrive at the fire, to observe that every company does its duty, to grant leaves of absence at a fire when he may deem it proper, and to see that the fire apparatus is kept in proper condition at all times.

(d) The chief shall have the power to demote or expel any officer or member of the department for neglect or refusal to perform his departmental duties, subject to an appeal from such demotion or expulsion to the council. The by-laws may also provide for expulsion for failure to participate in departmental activities or for non-residence.

(e) Not later than the first day of October of each year, the chief shall file with the municipal clerk a detailed estimate of the appropriations needed for the conduct of the department during the ensuing fiscal year.

(f) It shall be the duty of the chief to submit a written report to the council not later than the first day of February of each year, and at such other times as he deems desirable, relating to the conditions of the various pieces of apparatus and appurtenances, the number of hydrants and the conditions of the same, the number of fires occurring since the previous report, and the date of same and loss occasioned thereby; the number of members in each company and the total number of active members in the department, and resignations and expulsions from

the department. The chief shall also report upon the drill and training program of the department, together with other pertinent information, including recommendations for such improvements as he or she deems proper and necessary for the operation of the department.

(g) The chief shall enforce all fire prevention ordinances of this municipality and the state laws and regulations pertaining to fire prevention, and shall keep citizens informed on fire prevention methods, and on the activities of the department.

(h) The chief shall keep a fire record book of every fire to which any company was called and shall enter into such book the location of the fire, time alarm was received, cause of fire, where fire started, cause of delay (if any) in responding, amount of insurance carried on building and contents, estimated fire loss, time fire was extinguished, names of men responding and general remarks.

(i) The chief shall keep an inventory of all apparatus and equipment, and an inventory of all hoses showing dates and results of tests on each length, which shall be individually numbered.

(j) The chief shall perform such other duties as are usually incumbent on the commanding officer of the fire department.

(k) The chief shall assist the proper authorities in suppressing the crime of arson by investigating the cause, origin and circumstances of all fires.

Section 7. Control and Care of Apparatus.

(a) (1) The chief shall have control of all apparatus used by the department, and shall be responsible for its proper maintenance. Emergency repairs may be authorized by the chief.

(2) No apparatus shall be used for any purpose except for firefighting that is within the municipal limits, or in training therefor, except pursuant to an agreement approved by the council after the chief has given his recommendations on such use. With the approval of the chief, such apparatus may be used for emergency purposes outside the City [Town]. A written report of all uses shall be made quarterly to the council.

Section 8. Police Power of Department.

(a) Any officer of the department may cause the arrest of any person failing to give the right of way to the fire department in responding to a fire.

(b) The fire chief may prescribe certain limits in the vicinity of any fire within which no persons, except firefighters and police officers and those admitted by order of any officer of the department, shall be permitted to come. The chief shall have the power to order the removal of any property whenever it shall become necessary for the preservation of such property from fire, or to prevent the spreading of fire, or to protect the adjoining property, and during the progress of any fire, the chief shall have the power to order the removal or destruction of any property necessary to prevent the further spread of the fire. The chief shall also have the power to cause the removal of all wires or other facilities and the turning off of all electricity or other services where the same impedes the work of the department during the progress of a fire.

(c) Firefighters may enter adjacent property. It shall be lawful for any firefighter while acting under the direction of the fire chief or other officer in command to enter upon the premises adjacent to or in the vicinity of any building or other property then on fire for the purpose of extinguishing such fire; and if any person shall hinder, resist or obstruct any firefighter in the discharge of his duties as is hereinabove provided, the person so offending shall be deemed guilty of resisting firefighters in the discharge of their duty.

(d) Duties of by-standers to assist. Every person who shall be present at a fire shall be subject to the order of the fire chief or officer in command, and may be required to render assistance in fighting the fire or removing or guarding property. Such officer shall have the power to cause the arrest of any person or persons refusing to obey said orders.[Reference: Section 13A-10-6, Code of Alabama, 1975.]

(e) Injury to fire apparatus. No person shall willfully injure in any manner any hose, hydrant or fire apparatus belonging to the City [Town] of _____, and no vehicle, street car or railroad equipment shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway, track or other place, to be used at any fire or alarm of fire, without the consent of the fire department official in command. [Reference: Section 13A-5A-59, Code of Alabama, 1975.]

(f) The chief and department officers under the direction of the chief are hereby empowered to enter any and all buildings and premises at any reasonable hour for the purpose of making inspections and to serve written notice upon the owner or occupant to abate any and all fire hazards that may be found within a specified time.

Section 9. Fire Inspector: Duties

(a) The chief of the fire department shall hold the office of fire inspector, with power to appoint one or more deputy fire inspectors, who shall perform the same duties and have the same powers as the fire inspector.

(b) It shall be the duty of fire inspectors to inspect quarterly all buildings, premises and thoroughfares within the fire limits of this municipality; and to inspect semi-annually all buildings, premises and public thoroughfares within the municipal limits, for the purpose of noting and causing to be corrected any condition that could cause fire. Repairs or alterations necessary to remove the hazardous condition shall be made within a reasonable time at the expense of the owner or occupant. [Note: Because of varying conditions, it is not feasible to stipulate in this sample ordinance exactly what is a reasonable time. A provision might be included giving the right of appeal to the council in case the property owner believes the time allowed is unreasonable.] The inspector shall also investigate the storage and handling of explosives and inflammable liquids within a municipality.

(c) The chief shall keep a written record card of each property inspected and shall make a report of inspections as required by law.

(d) Whenever or wherever in the City [Town] of _____ any inspection by the fire chief or his deputies reveals a fire hazard, the chief or his deputies are hereby vested with authority to serve a notice in writing upon the owner or occupant of the property giving said owner or occupant a reasonable time in which to remove the hazard. [Note: Because of varying local conditions, it is not feasible to stipulate in this sample ordinance exactly what is a reasonable time. A provision might be included giving the right of appeal to the council in case the property owner believes the time allowed is unreasonable.] In the event that the fire hazard is not removed within the time allowed, it shall be deemed a nuisance and the fire chief or his deputy is authorized to have the same removed by the municipality, and the cost of such removal shall be recovered in an action by the municipality against the owner of the property.

(e) No person shall deny the chief or his deputies free access to any property within the municipality at any reasonable time for the purpose of making fire inspections. [Note: Because of varying local conditions, it is not feasible to stipulate in this sample ordinance exactly what is a reasonable time. A provision might be included giving the right of appeal to the council in case the property owner believes the time allowed is unreasonable.] No person shall hinder or obstruct the fire inspector in the performance of his duties, or refuse to observe any lawful direction given by the inspector.

Section 10. Each member of the department shall be issued a badge designating the rank of the member, and each shall be issued a suitable insignia to be attached to the motor vehicle the member uses to respond to fire alarms. The chief of police shall designate motor vehicles as authorized emergency vehicles. Only properly designated emergency vehicles shall be equipped with emergency lights prescribed by the rules of the road for use only in answering fire alarms, and such vehicles when used for that purpose shall have the right of way over other traffic.

Section 11. It shall be unlawful for any person to operate any vehicle over fire hose except upon specific orders from the fire chief or other officer in charge where the hose is issued. [Reference: Section 13A-5A-59, Code of Alabama 1975.]

Section 12. It shall be unlawful for the operator of any vehicle, other than one on official business, to follow closer than 500 feet from any fire apparatus travelling in response to a fire alarm, or to drive or stop any vehicle within 500 feet of the point where fire apparatus has stopped in answer to a fire alarm. [Reference: Section 13A-5A-115, Code of Alabama 1975.]

Section 13. It shall be unlawful for any person to willfully turn in or cause to be turned in a false fire alarm. [Reference: Section 13A-10-8, Code of Alabama 1975.]

Section 14. Any person violating any provision of this ordinance shall be guilty of a misdemeanor, and on conviction, shall be punished by a fine of not exceeding five hundred dollars (\$500.00), and may also be sentenced

to imprisonment at hard labor for not exceeding six (6) months. [Reference: Section 11-45-9, Code of Alabama 1975.]

Section 15. The parts of this ordinance are severable and should any part or parts be declared inoperative by a court of competent jurisdiction it shall not affect the remaining parts.

Section 16. All ordinances and parts of ordinances inconsistent herewith are hereby repealed to the extent of such conflict.

Section 17. This ordinance shall become effective immediately upon its adoption and publication as required by law.

Presiding Officer
City [Town] Council of the
City [Town] of _____, Alabama
ATTEST:

City [Town] Clerk

APPENDIX B

Suggested By-Laws

Section 1. Membership.

The requirements for membership in the department are as defined in subsection (d) of Section 2 of the ordinance governing this department.

Section 2. Application for Membership.

(a) The names of all applicants for membership shall be announced at a regular or special meeting of the department, either by the secretary or by the member who is sponsoring the applicant. The application of the candidate shall be turned over to the chief for investigation. The chief shall report at the earliest possible meeting upon his or her acceptance or rejection of the applicant.

(b) No rejected applicant shall be permitted to file another application until six months have elapsed since the time of the filing of the last application.

(c) All applicants after appointment must serve a probationary period of one year. If prior to the end of this period the chief shall file with the secretary a written report that the applicant shows satisfactory proficiency in drills and firefighting knowledge, he or she shall become a full member upon confirmation by the council.

Section 3. Meetings.

(a) The annual meeting of the department shall be held on the _____ of the month of _____ each year.

(b) The regular monthly meeting shall be held the _____ of each month at _____ p.m. or other hour specified in the notice of the meeting.

(c) Special meetings may be called by the chief at any time or shall be called by the chief if given a written request signed by five members. The object of the meeting must be stated in the call and no business other than the business stated in the call may be transacted. However, applications for membership may be presented, and bills ordered paid. Notices of such meetings must be mailed by the secretary two days in advance of special meetings, except in case of a meeting made immediately necessary by an emergency, in which case the secretary shall make every possible effort to notify directly all members of the department in some manner of the meeting.

Section 4. Election of Officers.

(a) The election of the secretary-treasurer and any social officers shall be held at the annual meeting, and only members in good standing at the time of the annual meeting are qualified to vote.

(b) It shall be the duty of the chief to report to the council the names of the elected and appointed officers immediately after election or appointment.

(c) All committees shall be appointed by the chief.

Section 5. Penalties and Forfeitures.

(a) Any active member who fails to attend three (3) consecutive meetings or drills or who fails to attend at least 50 percent of all fires in any year shall be automatically expelled unless the absence is caused by illness or injury. Time shall be calculated from the day of the annual meeting. The names of members so expelled shall be read at the next meeting following their expulsion, and their names shall be dropped from the roll of the department.

(b) Leaves of absence may be granted by the chief for reasons acceptable to him.

(c) An expelled member shall return to the commanding officer of his company all property in his care including badges and insignia. He shall not use any department insignia upon any personal equipment purchased by him.

Section 6. Power of Excuse.

(a) The chief shall have the power to excuse any member for absence from fires, meetings, or other places.

(b) The chief shall report all excuses granted at the next regular meeting.

(c) Excuses from fires, regular meetings, adjourned meetings or parades or funerals shall be: (1) actual sickness of member or member's family; (2) absence from the municipal limits; or (3) left in charge alone at a place of business.

(d) No member shall be excused from registering after a fire, except by the chief or assistant chief, and such excuses shall be stated to the department.

(e) Any member residing outside or absent from the municipality for three (3) consecutive months shall automatically be dropped from the roll of the department by the secretary.

Section 7. Fire Alarm.

The regular ringing of the fire bell or fire whistle or the sounding of whatever means is established for announcing fire alarms shall constitute an alarm of fire.

Section 8. Duties of Officers and Members.

(a) Duties of the Chief

(1) The chief shall designate the members of each company as laddermen and nozzle men in such numbers as he may designate.

(2) The chief shall prescribe fire alarm signals for use by the department and shall have the fire alarm tested at a regular time each day.

(3) It shall be the duty of the chief to see that all company officers have all the hoses thoroughly washed and dried after use at fires and drills, that no wet or dirty hose is placed on the apparatus, and that all apparatus and equipment is properly cleaned and in place.

(4) The chief shall see that company officers have the position of all hose on apparatus changed every ninety (90) days, if not otherwise used, and have water run through it every ninety (90) days. The chief shall see that all new hose is tested and passes the Underwriters Laboratories ("UL") specifications for hydrostatic pressure and that all hose is tested semi-annually at a hydrostatic pressure of 200 pounds.

(5) The chief shall investigate and make every effort to determine the cause of each fire and shall preserve all evidence of incendiarism.

(6) The chief shall direct a quarterly inspection of all hydrants and fire cisterns and approaches to natural water supplies, and during the winter months shall see that they are kept free from snow and ice. The chief need not be made responsible for the condition and inspection of fire hydrants where this is an accepted duty of the water department.

(b) Duties of Assistant Chief

(1) The assistant chiefs shall report to the chief at fires and assist him in the discharge of his duties. In the absence of the chief, the first assistant chief, and if both are absent, the second assistant chief, shall officiate in the capacity of chief.

(2) The first assistant chief, and in his absence the second assistant chief, shall preside at all meetings in the absence of the chief and shall appoint all committees called for at a meeting at which he may preside.

(3) Should the chief and both assistant chiefs be absent from a fire, the senior captain, and if none be present, the person having charge of the apparatus first arriving at the fire, shall assume the duties of the chief until the arrival of a superior officer.

(c) Duties of the Captain

(1) It shall be the duty of the captain to command his company, and have control thereof while on duty, parade, and all other occasions. All orders given by him on these occasions shall be explicitly obeyed.

(2) The captain shall obey all orders from the chief, and upon arrival at a fire, shall immediately report to the chief for further orders.

(3) The captain shall require, when the "take up" order is given, that the hose is placed on the engine and that all company equipment is returned to its proper place on the apparatus, and shall require that the rules for the care and management of the apparatus are obeyed. On returning from a fire, wet hose shall be removed from the truck and placed on the drying rack and the truck be reloaded with dry hose, if such is available. The captain shall make sure after each fire that the water tank and extinguishers are recharged and ready for use, and that the apparatus is otherwise prepared for response to another fire.

(4) The captain shall be held responsible for the condition of the apparatus and equipment of his company during the time it is under his command, and for the condition and appearance of the fire station in which it is housed, if separate from other stations.

(5) The captain shall report to the chief all fire hydrants that are, at any fire or drill, found frozen, leaky, out of order or that are set in such a manner as to make it difficult to connect thereto.

(6) The captain shall present all requests for supplies to the chief at the time of the monthly meeting. In case any apparatus shall need repair, he shall immediately report the condition to the chief.

(d) Duties of Lieutenant

(1) It shall be the duty of the lieutenant of each company to assist his captain in the discharge of his several duties.

(2) In the absence of the captain, the lieutenant shall officiate in his capacity. In the absence of the captain and lieutenant, the chief shall appoint one of the company to take charge and he shall be recognized as captain and shall be respected and obeyed accordingly.

(e) Duties of Secretary-Treasurer

(1) It shall be the duty of the secretary-treasurer to keep the minutes of all meetings, handle all department correspondence, keep a register of the names of all the members of the department, issue all notices, collect fines, assessments and other monies due the department and deposit the same in such bank as the chief may designate in the name of the department. [Note: This applies only to money raised by the department and not coming from tax funds.] He shall, if possible, give each member at least two full days' notice of any special meeting. He shall notify each person appointed a member of the department of such appointment, and shall furnish him with a copy of the bylaws.

(2) The secretary-treasurer shall keep a written account of all monies received and expended by the department. He shall issue orders to pay out of the department funds in his custody only such amount as the department has properly authorized paid and only on warrants properly drawn and signed by the chief. He shall submit to the meeting monthly and annually statements of the amounts on hand or due.

(f) Duties of Nozzlemen

(1) The duties of nozzlemen shall include the handling of small extinguishers and water and chemical lines to extinguish fires with a minimum amount of water damage.

(2) At fires in buildings, hose lines shall be advanced into the building with the nozzles shut off and not opened until fire is seen. After the main body of the fire is extinguished, the nozzle shall be shut off and the remainder cleaned up with small hose or a small tip on the shut-off nozzle.

(3) In laying a line from a hydrant to a fire, a nozzleman shall drop off with the butt end of the hose and wrench, connect to the hydrant, and stand by for the signal for water.

(4) In laying a line from the fire to a hydrant or cistern, nozzlemen shall drop off at the fire, with the nozzle and ample hose to reach the fire and the ladderman's tools shall be unloaded. The engine shall then be driven to the hydrant and the hose connected. [Note: These rules are drawn up to fit those cases where only one piece of apparatus will respond to a fire, and where this apparatus will carry laddermen's tools as well as hose and other equipment. If there is a separate ladder company there may be no necessity for removing laddermen's tools from this apparatus unless actually needed.]

(g) Duties of Ladderemen

(1) The general duties of ladderemen at fires are to ascertain that all occupants of a burning building are out, to make rescues, raise ladders, and open up and ventilate burning buildings so that nozzlemen may quickly bring their streams on the fire. Ladderemen carrying axes and plaster hooks should accompany nozzlemen working inside buildings, to open partitions or ceilings.

(2) Ladderemen shall quickly remove axes, plaster hooks, and necessary ladders from the apparatus, carry them to the building and use them as directed.

(3) Ladderemen shall be responsible for salvage operations to reduce water damage. They shall promptly spread salvage covers where they will be most effective, usually below the fire. They shall quickly assemble the contents of the rooms being covered so as to cover as much property as possible with one cover. After the fire, water and debris shall be removed, holes in the roof covered if possible, and salvage covers shall be cleaned and dried.

(h) Duties of Members.

It shall be the duty of the members of the fire department or its respective companies, as often as any fire shall break out, to proceed immediately upon the alarm thereof to the location of the fire. The drivers shall report to the fire station, to convey their apparatus to the fire, unless otherwise directed by the chief or other officers who may be in charge. When so directed, they shall return their apparatus, well washed and cleaned to the fire station.

(i) Drivers.

(1) The chief shall appoint with the consent of the council _____ [specify number but not less than five] drivers for the automobile apparatus, who shall be thoroughly instructed and competent in the operation of the apparatus to which they are assigned.

(2) No member of any company shall drive the automobile apparatus except the regularly appointed drivers unless directed to do so by the chief or the company officer, and then only in the case of an emergency.

(3) The drivers shall report to the master mechanic any required repairs.

(4) The drivers shall take care not to overload the apparatus or operate the pump at a pressure greater than that necessary to give an adequate fire stream under the conditions.

(5) The drivers shall take care to prevent the equipment from freezing during winter service.

(j) Master Mechanics

(1) The chief shall appoint a master mechanic, who may also be a driver, who shall be charged with the duty of maintaining all the apparatus of the department in good condition and ready for immediate service. No member of any company other than the mechanic so appointed shall be permitted to tamper with, fix or repair any of the apparatus unless so directed by the chief, or in his absence, the assistant chief.

(2) It shall be the duty of the master mechanic to make a weekly inspection of the apparatus, to check the tires, batteries, oil level, and other features which require attention. After each run an inspection of all apparatus and equipment shall be made and the gasoline tank refilled.

Section 9. Practice Drills.

(a) It shall be the duty of the chief to call for practice drills whenever he deems it necessary, but not less than once each month. Any company, officer or member refusing or failing to respond to any such drills may be suspended or placed on probation by the chief.

(b) It shall be the duty of the chief to arrange the drills and training so that they will include the proper and efficient use of all appliances and apparatus, including the quick handling, laying and raising of hose, handling of streams, use of shut-off nozzles, siamese connections, forcible entry tools, salvage work, ladder work, life saving and modern methods of extinguishment.

Section 10. Rules of Companies.

(a) Members shall, upon arriving at a fire, report to their company captain for orders, or if the company officer cannot be located, to the chief. They shall hold themselves in readiness to do what may be required of them, and all members shall assist in the work of the department whether it may be their assigned duties or not.

(b) Prompt, quiet obedience must be given to orders from officers and disputation cannot be allowed while on duty.

(c) A civil demeanor should always be preserved toward all non-members of the department, but no orders shall be taken from them.

(d) All reckless destruction of property shall be avoided and members must remember that it is their duty to protect property.

(e) The position of the companies at a fire shall be determined by the chief. The assistant chief shall report to the chief any changes which he considers necessary in the placing of hose crews and other equipment.

(f) Members stationed along hose lines shall require that no heavy articles, wagons, cars or vehicles are moved or dragged across the hose; that spectators do not stand upon or damage the lines; to report at once the bursting of the length in his charge; and to pass orders to and from the hydrant. As soon as a man executes an order which calls him from his assigned location, he shall return to it without delay.

(g) At a fire it shall be the duty of the chief to require that the police department (or marshal) has ropes stretched around the fire to keep outsiders back and to require that only firefighters come inside the ropes, and after the fire to see that all ropes are returned.

(h) No persons shall be allowed to enter any fire house or handle any apparatus or implements belonging to the department unless accompanied by an active member of the department.

(i) No member shall appear at meetings or on duty in a state of intoxication, or shall be guilty of using insulting, indecent or improper language, or be guilty of unbecoming conduct. For such improper conduct, the member may be subject to suspension.

(j) Each member of the department shall be held personally responsible for all department equipment in his possession.

Section 11. Order of Business.

(a) The following shall constitute the order of business at a meeting:

1. Roll Call
2. Reading of All Minutes of Meetings Not Approved
3. Communications and Bills
4. Committee Reports
5. Treasurer's Report
6. Applications for Membership
7. Unfinished Business
8. New Business
9. Adjournment

Section 12. Rules of Order.

A quorum for any meeting shall consist of a majority of the members of the department. All questions concerning rules of order shall be decided by the latest edition of *Roberts' Rules of Order*.

Section 13. Amendments.

(a) A proposal to amend the by-laws may be made at any regular meeting when a quorum is present and must be submitted in writing. The proposed amendment shall be mailed with the notice for the regular meeting, and a ballot taken on the amendment at the meeting following the one at which the proposed amendment was submitted.

(b) A two-thirds affirmative vote of the members of the department shall be necessary to amend or alter the bylaws.

Such amendment, if voted, shall take effect upon approval by the municipal council.

APPENDIX C

Sample Contract Between Two Jurisdictions for Fire Services

This agreement dated _____, 20__, between the City of _____, Alabama, hereinafter called “city” and the Town of _____, Alabama, hereinafter called “town,” both municipal corporations in _____, County, Alabama,

Witnesseth:

1. That the town will pay to the city treasurer of the city, for the services in the town of one piece of apparatus of the city’s fire department, the sum of One Hundred Dollars (\$100.00) within ten (10) days after the signing of this contract, or agreement, and annually thereafter on January 1, plus the sum of Fifty Dollars (\$50.00) for each fire run in addition to the first two runs in each year beginning January 1, provided that for each fire run where said firefighting service is not required due to a false alarm or because the fire is otherwise extinguished, the sum of Twenty-Five Dollars (\$25.00) shall be paid. The treasurer of such city shall within fifteen (15) days after the close thereof submit a bill to the town for the fire runs made during each three-month period ending March 31, June 30, September 30 and December 31, that are in addition to the two calls included under the annual payment, and the town shall make payment in full therefor to the city treasurer within fifteen (15) days thereafter;

2. That the city will furnish, for the said sums, such apparatus and firefighters of its fire department to answer calls in the town as the city’s fire chief shall determine, in view of the needs of the city and other conditions; provided that if, in the opinion of the fire chief, it is, at any time, advisable to order the apparatus and men back to the city, he is at liberty to do so; provided that the city shall not be liable for any failure to furnish fire protection to the town;

3. That it is understood and agreed that the city does not hereby agree to limit its service to the above-named town, but it shall have the right to enter into contracts or agreements with other entities.

4. The town hereby agrees to hold harmless and indemnify the city for any liability which arises from providing fire protection services when responding to a fire pursuant to Section 2 of this contract.

5. That this agreement shall be effective from the date of the signing to _____, 20__.

In witness whereof, the parties have caused this agreement to be executed by their duly authorized officers on the day and year first above written.

City of _____, Alabama
Attest: _____
By: _____
Mayor

Town of _____, Alabama
Attest: _____
By: _____
Mayor

APPENDIX D

Sample Agreement Between Business/Homeowner for Fire Services

AGREEMENT

STATE OF ALABAMA

COUNTY OF _____

THIS AGREEMENT, made and entered into this the ___ day of _____, 20___, by and between _____ and _____, hereinafter called "owners" and _____ Volunteer Fire Department, hereinafter called "fire department;"

WITNESSETH:

WHEREAS, _____ and _____ are the owners of that certain property located at _____, and legally described as: _____; and

WHEREAS, said owners desire to contract with the fire department for fire protection services; and

WHEREAS, fire department agrees to furnish and render fire protection services to the property of said owners; and

NOW, THEREFORE, in consideration of the premises and the sum of One Dollar (\$1.00) each to the other in hand paid, the receipt whereof is acknowledged, the parties hereto agree as follows:

1. Fire department agrees with owners to answer any call and to use its best efforts in providing fire protection services to extinguish any fire on owner's premises, provided adequate manpower and equipment is available.

2. Owners agree to pay to the fire department an annual service charge for fire protection services in the sum of _____ Dollars (\$_____), payable as follows: _____, and owners further agree to pay to the fire department the municipality's cost of each fire call made to owner's property.

3. Fire department agrees with owners that costs for its services may be transmitted, in any available method, to _____, who is hereby designated as the agent of fire department to accept calls for service from said owners.

Owners further agree that _____ shall have the power to act as their agent to call fire department and fire department agrees that calls by will be treated as if made by the owners.

4. The parties hereto agree that this agreement is entered into in order to comply with owner's homeowner policy with _____ Company and, specifically, under that certain paragraph entitled "Supplementary Coverages;" and in connection herewith owners represent that the property described above does not lie within the limits of any municipality.

[Note: This section is to be included only in contracts with homeowners.]

5. Any other needful provisions.

[Owners]

_____ VOLUNTEER FIRE DEPARTMENT

BY: _____

APPENDIX E

Sample Ordinance – Right of Way for Truck

AN ORDINANCE

Section 1. When a fire alarm is given, it shall be the duty of the drivers of all motor and other vehicles on the streets of the City of _____, to drive to the curb and stop, and such vehicle shall remain standing until the fire trucks and other fire apparatus shall have passed by at least six hundred feet.

Section 2. It shall be unlawful for any person or persons driving a motor or other vehicle to follow within six hundred feet of any fire truck or other fire apparatus of the Fire Department of the City of _____ while such trucks or fire apparatus are responding to a fire alarm or returning from a fire alarm.

Section 3. It shall be unlawful for any person or persons to drive or park any motor or other vehicle closer than three hundred feet to any of the fire trucks or fire apparatus while such trucks or apparatus are standing at or near the source of the fire alarm.

Section 4. It shall be unlawful for any person or persons to drive a motor or other vehicle over, across, or against any hose or other equipment of the Fire Department. When streets have been roped off in the vicinity of a fire, it shall be unlawful for any person or persons to enter the roped off enclosure except at the request of one of the firefighters.

Section 5. It shall be unlawful for the owner or other custodian of any motor or other vehicle to equip the same with any siren or bell that imitates the signals of the vehicles of the Fire Department.

Section 6. It shall be unlawful for any person or persons to turn in a false alarm of fire by telephone, street box or in any other manner.

Section 7. Any person, or persons, violating any of the provisions of the foregoing sections, except Section 6, shall be guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than Ten Dollars (\$10.00), nor more than Five Hundred Dollars (\$500.00), and may also be sentenced to imprisonment, or hard labor for not exceeding six (6) months. Any person, or persons, violating Section 6 of this ordinance shall be guilty of a misdemeanor and on conviction shall be punished by a fine of Five Hundred Dollars (\$500.00) and shall also be sentenced to imprisonment, or hard labor, for not less than thirty (30) days.

APPENDIX F

Sample Ordinance – Interfering with Firefighting

AN ORDINANCE

Section 1. It shall be unlawful for the operator of any vehicle, other than one on official business, to follow closer than 500 feet to any fire apparatus traveling in response to a fire alarm, or to drive or stop any vehicle within the block where a fire apparatus has stopped in answer to a fire alarm.

Section 2. It shall also be unlawful for any person in charge of, or in control of, any vehicles, engine or train to recklessly, wantonly, willfully or maliciously delay any fire apparatus of the City of which such fire apparatus is going to, or coming from, any supposed or actual fire.

Section 3. Any person who violates any of the provisions of the ordinance shall be fined not less than One Dollar (\$1.00) nor more than Two Hundred Dollars (\$200.00) upon conviction thereof.

APPENDIX G

Sample Ordinance – Crossing Fire Hoses

AN ORDINANCE

No vehicle shall be driven over any unprotected hose of the fire department when laid down on any street or private driveway to be used at any fire or alarm of fire, without the consent of the fire chief or fire department official in command.



Alabama League of Municipalities

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